

Date

28 MAY 1981

Initials	Date
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1. EO/DDA

2. ADDA

3.

8. D/Information Services

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REMARKS

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EXECUTIVE SECRETARIAT

Routing Slip

TO:		ACTION	INFO	DATE	INITIAL
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9	GC	X			
10	LC		X		
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Remarks:

To 9: For comment to the DCI.

D/Executive Secretary

27 May 1981

Date

3637 (12-77)

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Office of the Attorney General
Washington, D.C. 20530

DD/A Registry

81-1032/2

81-7277/2

May 22, 1981

Honorable William J. Casey
Director
Central Intelligence Agency
Washington, D.C. 20505

Dear Bill:

Many thanks for your letter of May 14th. As you may know the Justice Department is currently reviewing the entire Freedom of Information Act ("FOIA") with a view toward seeking, by June 12, an administration bill which will address a broad range of difficulties which the current Act presents.

I certainly agree that among the most serious problems presented by FOIA are those concerning intelligence agencies. We believe, as you do, that the risk of disclosure under FOIA, as presently structured, may deter foreign governments and private informants from sharing sensitive information with U.S. agencies.

The foreign intelligence problems presented by FOIA are, however, not unique to the CIA or NSA. Such problems also arise with some frequency in the State Department, the Defense Department, the Justice Department (particularly within the FBI), and other federal agencies. We believe that the foreign intelligence problems presented by FOIA across the government can, however, be most effectively addressed by amendments to FOIA applicable to all agencies. We intend to propose language which is strong enough to satisfy the substantive concerns of the CIA, but do not believe, at this point in our analysis, that it is necessary or politically desirable to attempt to single out the CIA and NSA to become agencies wholly exempt from the Act.

In part, this is a question of legislative strategy. This Act presents very substantial problems for the entire federal executive establishment. If each executive branch agency approaches the Congress individually and seeks to solve these problems piecemeal, it seems to me that we are all likely to be divided and conquered by those who cloak themselves in the "public's right to know." On the other hand, if the Administration, as we in Justice currently plan, presents Congress with a single, comprehensive revision of the entire Act, we are in my view likely to get most of it through.

I realize that anything short of a total exemption may not be entirely satisfactory to you because, as you suggest, the very fact that the Agency must respond at all to FOIA requests may create an adverse "perception" among foreign sources that sensitive information could be disclosed. This perception problem is, again, however, not unique to the CIA but is shared by all investigative agencies, including this Department, that must rely on confidential sources. We hope, however, that by appropriate amendments we can largely remedy on a government-wide basis the perception that U.S. agencies cannot maintain the secrecy of sensitive information.

Thus, we would like to develop a single package of amendments to FOIA which addresses its major problems and will receive the support of all of the executive agencies. If it appears at a later stage in our efforts that legislation tailored specifically to the needs of the CIA is still needed, we would, of course, be happy to support it.

If you or Al Haig disagree with these views, I would suggest that we raise it at some appropriate cabinet or staff meeting or, perhaps, when we have had a chance to discuss it further, with the President himself.

With warmest regards,

Sincerely yours,



William French Smith
Attorney General

cc: The Honorable Alexander M. Haig